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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.103 OF 2007

The Commissioner of Central Excise .....Appellant

Vs.

M/s.S.R.S. Plytex & Ors. ...Respondent

Mr. Y.S. Bhate with Mr. N.R.Praapati for the Appellant
Ms. Kiran Doiphode i/b. V.M. Doiphode & Co., for the Respondent.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 20th September,2007

P.C.:

. The question of law as framed reads as under:-

Whether in the facts and circumstances of the case, the Hon'ble CESTAT was correct in law in remanding back the case for denovo decision on the grounds of violation of natural justice when the order has been passed by the Adjudicating Authority after allowing cross examination of persons as requested, and on considering all the relevant aspects and giving appropriate relief to the Noticees i.e. the Respondents herein?

. We have perused the impugned order. The Tribunal has not recorded a finding of fact that cross examination was not permitted. What the Tribunal has noted is that the record of cross examination which was sought for were not supplied to the noticees. The Tribunal, therefore, held that this would amount to violation of principles of natural justice and fair play. The Tribunal also noted that the matter is also to be remanded following the decision in the case of Decent Dying Co., 1999 (45) ELT 201 (SC). Considering the question of law framed and the finding by the Tribunal question of law as raised would not arise. Hence Appeal dismissed.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**